APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,766	09/10/2003	Rainer Barth	BARTH-2	4858

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EXAMINER
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ART UNIT	PAPER NUMBER
2443	

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02/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action	10/659,766	BARTH, RAINER
Before the Filing of an Appeal Brief	Examiner	Art Unit
	JERRY DENNISON	2443

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 January 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: *see attached.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>1-20</u>.

    Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure* Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

                                 /J. Bret Dennison/
                                 Examiner, Art Unit 2443

Applicant has not properly amended claims 1 and 11 to overcome the 112 2nd rejections. The issue at hand was not one of antecedent basis. As explicitly described in the Final Office Action, dated 10/30/3008, it is unclear to Examiner what is considered to be "sensitive" event-relevant information. Applicant's Specification does not provide the detail to describe what "sensitive" event-relevant information includes, or does not include.

Paragraph [0024] recites, "The e-mail, the SMS or the voice message themselves do not contain any sensitive information."

This sentence appears to be the only sentence in Applicant's Specification that even mentions the term "sensitive." However, this does not define what is considered to be sensitive. As such, it is unclear to Examiner as to what is considered to be sensitive and what is considered not to be sensitive event-relevant information.

Applicant asserts, "the published application of Zhou does not address the inadequacies of current encryption schemes such as PKI, for securing the industrial diagnostic information that technicians need to respond to alarm events detected by a controller from a location that is remote from that controller.

     In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that these features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant asserts, "Zhou...does not disclose the step(s) of (1) transmitting a receiver-specific alarm message indicating that an alarm event has occurred in a machine or (2) securely accessing in response to the alarm message the event-relevant information that was written to the database by an industrial controller controlling that machine for the specified receiver of the alarm message" [After-Final p10].

In response to (1), Examiner disagrees.

As shown in the rejection, Zhou clearly disclosed that the users may specify what device the user is to receive the alerts (Zhou, [0079]). In this paragraph, Zhou disclosed that end users can specifiy for example, the primary device to which the user should receive alerts. As such, any alert messages sent to this specified device is a "receiver-specific alarm message" as claimed.

Regarding the alert, Zhou disclosed, "This information can be used by personnel at the CMC 40 to respond to inquiries from end users 25 who may call the CMC 40 for additional information beyond the basic message generated by the ASP's automatic notification system." (Zhou, [0022]). It can be seen from this citation that Zhou disclosed an "automatic notification system" that sends out basic messages indicating that an alert has happened. THEN at this point, the user can call in, or access the secure website to see what happened. The system would not be called an "automatic notification system" if it did not automatically notify the users.

As also shown in [0022], Zhou clearly disclosed the alerts is an alarm message indicating that an alarm has occurred in a machine. For example, Zhou disclosed that the user can "specify alert threshold values" and reeive device data.

In response to (2), Examiner disagrees.

As indicated in the Final response, after receiving the alert message, the users have the ability to access a secure website using SSL. For example, Zhou disclosed "The System may potentially implement a number of different security measures to safeguard the personal location and sensor data of users 25 and location of Devices 100, to prevent illicit commands from malicious third parts and to secure the data stream from potential interlopers" (Zhou, [0023]).

Applicant continues to argue about the "sensitive event-relevant information." Applicant is directed towards the 112 rejection, explained above.

Applicant argues that Zhou fails to disclosed sensor information about "highly-automated industrial machines."

     In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that these features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues, "Zhou's values are disclosed as being simply collected and displayed, without any reference to the relevance of particular values to a particular alarm event."

Examiner disagrees.

Zhou clearly disclosed that users can securly access their alert data through the website. It wouldn't make any sense for the website to just collect the sensor data and display it without it referencing to the alarm event, because if this were the case, the entire invention of Zhou would be pointless as the end users accessing the website would have no clue as to what values they were looking for. As shown in the rejection, Zhou clearly disclosed users having the ability to specify alert thresholds for the devices they would like to monitor, and the system of Zhou notifies them and provides them with information for when these alerts are reached. Clearly this alert data is even-relevant as that is the entire point of Zhou.

Therefore, the rejections are respectfully maintained.